

State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
December 9, 2014
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**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
Minutes of December 9, 2014**

Board Members Present

Maroulla S. Gleaton, M.D., Chairman
David D. Jones, M.D., Board Secretary
David Nyberg, Ph.D.
M. Louisa Barnhart, M.D.
David H. Dumont, M.D.
Christopher R. Ross, P.A.-C
Peter J. Sacchetti, M.D.

Board Staff Present

Timothy E. Terranova, Assistant Executive Director
Mark S. Cooper, M.D., Medical Director
Julie A. Best, Consumer Outreach Specialist
Kathryn Levesque, Investigator
Maureen S. Lathrop, Administrative Assistant

Attorney General's Office Staff Present

Dennis E. Smith, Assistant Attorney General

Dr. Andrews, Ms. Clukey and Mr. Dyer were excused

The Board met in public session, with the exception of the times listed below, which were held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405, 405(4), 405(6)(E); 10 M.R.S. §8003-B; 22 M.R.S. §1711-C; and 24 M.R.S. §2510). The Board moved, seconded, and voted the following executive session times. During the public session of the meeting, actions were taken on all matters discussed during executive session.

EXECUTIVE SESSIONS

PURPOSE

9:00 a.m. – 10:46 a.m.

Complaints

I. Call to Order

Dr. Gleaton called the meeting to order at 8:57 a.m.

A. Amendments to Agenda

1. Discussion regarding the role of case reporters at Adjudicatory Hearings

B. Scheduled Agenda Items (none)

II. Complaints

1. CR13-100 Curt T. Young, M.D.

Dr. Nyberg moved to dismiss the complaint with a letter of guidance. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complains about the financial arrangements she was offered to pay for a procedure to be performed at the physician's office. She also states she was not

adequately informed of other options available to her. The physician responded that MaineCare no longer covers procedures performed at Ambulatory Surgical Centers, and stating the patient was offered the option of having the procedure performed at a hospital where it would be covered. The physician indicated after being informed of the options available to her, the patient elected to have the procedure performed at his office.

The letter of guidance will encourage the physician to: 1) recognize that it is not appropriate to delegate the informed consent process to staff without your personal participation; and 2) recognize that a signed consent form is necessary but not sufficient. Obtaining meaningful informed consent is a process and a note reflecting that process and your role in it should be part of the medical record.

2. CR14-58 Paul M. Berman, M.D.

Dr. Nyberg moved to dismiss the complaint with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The Board issued a complaint against the physician based on a report from a hospital that the physician's employment was terminated for failure to follow hospital policies regarding informed consent and immunizations.

The letter of guidance will encourage the physician to recognize that when doing locums work in a Maine hospital, it is imperative that you follow hospital policy in obtaining informed consent, and that you comply with state mandated immunization requirements.

3. CR14-148 John P. Bastin, P.A.-C

Dr. Sacchetti moved to dismiss the complaint with a letter of guidance. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

MOTION: The Board issued a complaint against the physician assistant based on a report from a hospital that his employment and hospital privileges were terminated for failure to complete medical records and to respond to requests from the hospital to do so.

The letter of guidance will encourage the physician assistant to: 1) recognize the importance of documenting patient encounters within an acceptable period of time per your employer's guidelines; and 2) recognize the need to maintain communication with your supervising physician especially in times of adversity.

4. CR14-150 Todd H. Chisholm, P.A.-C

Dr. Nyberg moved to dismiss the complaint with a letter of guidance. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

MOTION: The Board issued a complaint against the physician assistant based on a report from a health care facility that the physician assistant sent an unprofessional communication to that facility.

The letter of guidance will encourage the physician assistant to recognize that unprofessional behavior of this kind can be damaging to others as well as yourself. It is important to gain insight and self-control in managing your expressions of frustrations with administrative decisions when you disagree.

5. CR14-26 Floyd D. Hockersmith, M.D.

Dr. Jones moved to dismiss the complaint with a letter of guidance. Dr. Sacchetti seconded the motion, which passed unanimously.

MOTION: Pursuant to a court order, the Board reviewed additional records and a supplemental response from the physician. After review of the additional information, the Board's concerns about the medical care provided remained unchanged.

The letter of guidance will encourage the physician to: 1) recognize the importance of medical record documentation; 2) be aware of drug interactions when prescribing; and 3) recognize the importance of a patient's past medical history and allergies when prescribing.

6. CR14-48 Floyd D. Hockersmith, M.D.

Dr. Jones moved to dismiss the complaint with a letter of guidance. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: Pursuant to a court order, the Board reviewed additional records and a supplemental response from the physician. After review of the additional information, the Board's concerns about the medical care provided remained unchanged.

The letter of guidance will encourage the physician to: 1) recognize the importance of medical record documentation; 2) be aware of drug interactions when prescribing; and 3) recognize the importance of a patient's past medical history and allergies when prescribing.

7. CR14-141

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: A patient in an institution complains about the physician who performed a surgical procedure for a recurrent cyst. The patient's concerns involve the incision site, length and subsequent hypersensitivity and numbness postoperatively. The physician explained the medical rationale for the surgery orientation and suture construction, which was reasonable. There is no evidence in the medical record of patient concern or adversity at postoperative follow-up visits.

8. CR14-81

Dr. Barnhart moved to investigate further. Dr. Sacchetti seconded the motion, which passed unanimously.

9. CR14-91

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complains the physician did not acknowledge her or her mother when she entered the room. The patient also feels the physician was rude and failed to examine her. The physician responded she did acknowledge the patient, but did not acknowledge the mother because she thought they had met before. She further states the patient became angry and left before she could examine her. The physician denies she was rude, but does acknowledge that her continued questioning may have made the situation worse.

10. CR14-111

Dr. Barnhart moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient's family complains their alcoholic son was overprescribed another addictive medication. The Board reviewed the medical record and clinical course of the patient. Concerns arose regarding medical record-keeping and the use of universal precautions when prescribing controlled substances. The physician responded and described the changes he plans to implement to address the Board's concerns. The Board found the medical care of the patient appropriate and was satisfied with the physician's response to the concerns that arose.

11. CR14-132

Mr. Ross moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complains the physician acted unprofessionally while treating her postoperative pain, and that there was a miscommunication about pain medication prescribed at discharge. The physician responded he was not aware of the amount of pain the patient was experiencing, and he apologized for the miscommunication about the prescription. Review of the medical record reveals appropriate care. The physician has changed his discharge process to prevent similar miscommunications in the future.

12. CR14-133

Dr. Jones moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed 4-0-0-3 with Dr. Gleaton, Dr. Barnhart and Mr. Ross recused.

MOTION: The patient complains the physician was unprofessional and negligent in her treatment. She alleges the physician falsified her medical record and that she failed a test due to a high metabolism. The physician responded by detailing the patient's care, including the transition between different programs. The test did not show the expected results and there is no evidence that the records were falsified.

13. CR14-125

Dr. Barnhart moved to investigate further and order a \$3286 evaluation. Dr. Jones seconded the motion, which passed unanimously.

14. CR14-83

Dr. Jones moved to order an Informal Conference. Dr. Barnhart seconded the motion, which passed 6-1-0-0.

15. CR14-131

Dr. Jones moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient's family complains the physician stopped one of the patient's supplements, causing her to be admitted to the hospital. The family's concern is understandable; however, review of the record reveals this supplement was stopped for only one day. Stopping the supplement for this short period of time would not have affected the patient's condition.

16. CR 14-157

Mr. Ross moved to investigate further. Dr. Jones seconded the motion, which passed unanimously.

17. CR14-158

Mr. Ross moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains the physician acted unprofessionally and incompetently while treating him for shortness of breath by adjusting one medication and discontinuing the other. The physician responded the patient was out of compliance with his controlled substance agreement, angry about losing his narcotic prescription, loud and abusive to staff and to him, and had either canceled or rescheduled at least five appointments in a three-month period. The patient's oxygen saturation was normal during the visit, not warranting the demanded prescription for portable oxygen.

18. CR14-159

Dr. Sacchetti moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complains her gynecologist informed her that a cervical lesion was caused by HPV even though no confirmatory testing was done. The patient expresses concern that other patients are being improperly diagnosed as having HPV without proper testing and given incorrect information about what causes cervical cancer. The physician responded by discussing the science behind her explanation to the patient, the lab protocols in place, and the treatment the patient received. Current pap smear protocols and the biology of tumor growth and risk factors are complex subjects. The information provided by the physician was factual and accurate.

19. CR14-162

Dr. Barnhart moved to dismiss the complaint. Dr. Jones seconded the motion, which passed unanimously.

MOTION: The patient complained about her physician's tone and demeanor during a phone conversation about medication and office cancellation policy. These can be difficult discussions, at times, between patients and providers. The patient has appropriately changed providers to better meet her needs.

20. CR14-160

Dr. Sacchetti moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains her surgeon and two radiologists failed to diagnose a malignant nodule of the breast, delayed treatment, and acted outside the standard of care. The medical record is incomplete as the patient refused to release all records. Nonetheless, the physicians' responses are concordant in their factual representation which describes efforts to further diagnose a very small, elusive abnormality on a mammogram while minimizing risk. There was collaboration among providers, communication with the patient, and a follow-up plan in keeping with current guidelines. A note from the institution where the patient's cancer was eventually diagnosed and treated indicates that the location of the nodule and its size posed a challenge to biopsy.

21. CR14-161

Dr. Sacchetti moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains her surgeon and two radiologists failed to diagnose a malignant nodule of the breast, delayed treatment, and acted outside the standard of care. The medical record is incomplete as the patient refused to release all records. Nonetheless, the physicians' responses are concordant in their factual representation

which describes efforts to further diagnose a very small, elusive abnormality on a mammogram while minimizing risk. There was collaboration among providers, communication with the patient, and a follow-up plan in keeping with current guidelines. A note from the institution where the patient's cancer was eventually diagnosed and treated indicates that the location of the nodule and its size posed a challenge to biopsy.

22. CR14-167

Dr. Sacchetti moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed unanimously.

MOTION: The patient complains her surgeon and two radiologists failed to diagnose a malignant nodule of the breast, delayed treatment, and acted outside the standard of care. The medical record is incomplete as the patient refused to release all records. Nonetheless, the physicians' responses are concordant in their factual representation which describes efforts to further diagnose a very small, elusive abnormality on a mammogram while minimizing risk. There was collaboration among providers, communication with the patient, and a follow-up plan in keeping with current guidelines. A note from the institution where the patient's cancer was eventually diagnosed and treated indicates that the location of the nodule and its size posed a challenge to biopsy.

23. CR14-164

Dr. Sacchetti moved to dismiss the complaint. Dr. Barnhart seconded the motion, which passed unanimously.

MOTION: The patient complains that three radiologists failed to diagnose a malignant nodule of the breast, delayed treatment, and acted outside the standard of care. The medical record is incomplete as the patient refused to release all records. The three physicians responded collectively and presented radiology reports that were allowed by the patient. There was communication with the patient with regard to abnormal imaging and the patient acted on the radiologists' advice by finding a breast surgeon.

24. CR14-165

Dr. Sacchetti moved to dismiss the complaint. Dr. Barnhart seconded the motion, which passed unanimously.

MOTION: The patient complains three radiologists failed to diagnose a malignant nodule of the breast, delayed treatment, and acted outside the standard of care. The medical record is incomplete as the patient refused to release all records. The three physicians responded collectively and presented radiology reports that were allowed by the patient. There was communication with the patient with regard to abnormal imaging and the patient acted on the radiologists' advice by finding a breast surgeon.

25. CR14-166

Dr. Sacchetti moved to dismiss the complaint. Dr. Barnhart seconded the motion, which passed unanimously.

MOTION: The patient complains three radiologists failed to diagnose a malignant nodule of the breast, delayed treatment, and acted outside the standard of care. The medical record is incomplete as the patient refused to release all records. The three physicians responded collectively and presented radiology reports that were allowed by the patient. There was communication with the patient with regard to abnormal imaging and the patient acted on the radiologists' advice by finding a breast surgeon.

26. CR14-140

Dr. Jones moved to dismiss the complaint. Dr. Dumont seconded the motion, which passed 5-0-0-2 with Dr. Gleaton and Mr. Ross recused.

MOTION: The patient presented to the emergency room on a Friday night at 10:00 p.m. with an acute exacerbation of her chronic abdominal pain and vomiting, requesting treatment of her pain. During the visit, the patient was dissatisfied with her pain management, wanting and expecting to be treated with narcotics. The physician responded by clearly explaining his thoughtful and appropriate approach to chronic abdominal pain. He also noted that it was unfortunate that the patient chose to leave the emergency room without resolution of her symptoms.

III. Assessment and Direction

27. AD14-184

Dr. Dumont moved to file the issue. Dr. Sacchetti seconded the motion, which passed 5-0-0-2 with Dr. Gleaton and Dr. Ross recused.

28. AD14-191

Dr. Barnhart moved to investigate further. Dr. Sacchetti seconded the motion, which passed unanimously.

29. AD14-192

Dr. Sacchetti moved to issue a complaint (CR 14-203). Mr. Ross seconded the motion, which passed 6-0-0-1 with Dr. Jones recused.

30. Intentionally left blank

31. Intentionally left blank

32. Pending Adjudicatory Hearing and Informal Conference Report

The Board reviewed the report. The Assistant Executive Director reminded the Board an Adjudicatory Hearing is scheduled for the next meeting on January 13, 2015.

33. Consumer Outreach Specialist Feedback (none)

34. Physician Feedback

The Board reviewed feedback from a physician whose license renewal application was pended due to an outstanding complaint. The physician described the negative effects caused by the delay in his license renewal. The Board's policy is to pend license renewal applications while a complaint is outstanding. However, a waiver may be granted upon appeal to the Board. The Board instructed staff to include information regarding the waiver provision of the policy in the complaint notice. This information will also be included in a future issue of the Board's newsletter.

IV. Informal Conference (none)

V. Minutes for Approval

Dr. Dumont moved to approve the minutes of the November 10, 2014 meeting. Dr. Sacchetti seconded the motion, which passed unanimously.

Dr. Jones moved to correct the entry in the September 10, 2013 board minutes regarding Hil Rizvi, M.D. by deleting the entry "The Licensure Committee moved to approve the permanent licensure application of Hil Rizvi, M.D. The motion passed unanimously." and replacing it with "The Licensure Committee moved to table the licensure application of Hil Rizvi, M.D. The motion passed unanimously." Dr. Dumont seconded the motion, which passed 5-0-2-0 with Dr. Sacchetti and Mr. Ross abstaining.

VI. Board Orders & Consent Agreement Monitoring and Approval

A. Board Orders (none)

B. Consent Agreement Monitoring and Approval

1. Charles D.M. Clemetson, M.D.

Dr. Jones moved to issue a complaint for violation of the terms of probation imposed by the Decision and Order of the Board dated July 11, 2013. Dr. Dumont seconded the motion, which passed unanimously.

2. Keng-Cheong Leong, M.D. [Appendix A]

Dr. Jones moved to accept the signed Consent Agreement. Dr. Nyberg seconded the motion, which passed unanimously.

3. Nicholas G. Handanos, M.D. [Appendix B]

Dr. Dumont moved to accept the signed Consent Agreement. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Sacchetti recused.

4. Patrick Carson, P.A.-C

Dr. Jones moved to approve Mr. Carson's request to amend the terms of the Consent Agreement. Dr. Nyberg seconded the motion, which passed unanimously.

VII. Adjudicatory Hearing (none)

VII. Remarks of Chairman

A. Board Member Resignation

Dr. Gleaton reported Dana Dyer, public member, resigned from the Board in November. She contacted Mr. Dyer to express the Board's appreciation for his contributions as a public member of the Board. Dr. Gleaton also requested Board members provide the names of anyone they are aware of who may be interested in serving as a public member of the Board.

B. 2015 Term Expirations

The Board reviewed a list of term expiration dates for current Board members. Three Board member's terms expire on June 30, 2015. The Assistant Executive Director requested that those members advise staff if they plan to seek reappointment to the Board.

C. Prison Hospice Policy

After review of a recent complaint involving end-of-life care provided to a prison inmate, the Board sent a letter to the Department of Corrections requesting information about procedures and policies in place regarding provision of end-of-life care at the prison. The Board reviewed a letter received from the Department of Corrections explaining the process for determining if it is appropriate to provide end-of-life care at the prison or if the inmate requires care at a hospital. A copy of the department's hospice policy was also provided.

D. Search Committee Update

Dr. Gleaton informed the Board that the Bureau of Human resources advertised the position of Executive Director. She has received several inquiries about the position. The Board instructed staff to request that the Federation of State Medical Boards put a notice in their newsletter regarding the position.

VIII. Assistant Executive Director's Monthly Report

The Assistant Executive Director reported the Governor's office declined to move the licensing compact forward and requested that the Board follow the progress of the compact and gather additional data. He also reported his recent participation in a conference call regarding SPEX (Special Purpose Examination). Usage of the exam has been declining, and it will soon become financially inviable. The exam may be phased out within the next few years. The Board accepted the report of the Assistant Executive Director.

A. Complaint Status Report

As of December 1, 2014, there are ninety-three complaints outstanding. One hundred sixty-six have been received year-to-date and one hundred forty-nine have been closed so far this year.

B. FSMB Annual Meeting

Dr. Barnhart moved to authorize Dr. Nyberg and Timothy Terranova, Assistant Executive Director, to attend the Federation of State Medical Board's annual meeting in Fort Worth, Texas April 23 – 25, 2015. Dr. Jones seconded the motion, which passed 6-0-1-0 with Dr. Nyberg abstaining.

C. Travel and Expense Vouchers

The Board reviewed information regarding the state's policies related to travel expense reimbursement for attendance at Board meetings and other Board-related functions.

D. Meal Reimbursement

The Board reviewed information regarding the statutorily defined reimbursement rate for lunch when in attendance at board meetings.

X. Medical Director's Report

The Medical Director reported on the Board-sponsored program he attended on November 15th regarding Risk Evaluation and Mitigation Strategies (REMS) for prescribing opioid medications.

XI. Remarks of Assistant Attorney General (none)

XII. Secretary's Report

A. Licenses for Ratification

1. M.D. Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the following physician license applications. Dr. Nyberg seconded the motion, which passed unanimously.

The following license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Banks, Kevin P.	Diagnostic Radiology	Teleradiology
Becker, Nils	A&C Pathology	Telemedicine
Bengston, James R.	Interventional Cardiology	Waterville
Brown, Darin C.	Emergency Medicine	Lewiston
Colvin, Jill H.	Dermatology	Augusta
Cote, Elizabeth A.	Pediatrics	Lewiston
Dedwylder, Wilkins W.	Family Medicine	Caribou
Dwyer, Caitlin E.	Emergency Medicine	Portland
Haas, Nelson S.	Preventive Medicine	Augusta
Hines, Paul M.	Surgery	Brunswick
Hutchinson, Peter H.	Orthopedic Surgery	Brunswick
Jacobsen, Matthew	Oral Maxillofacial Surgery	Not Listed
Karpitskiy, Vladimir V.	Neurology	Telemedicine
Koerner, Paul A.	Orthopedics	Not Listed
McLaughlin, Marilyn A.	Oncology	Not Listed
Morrisette, Gregory J.	Anesthesiology	Portland
Morrisette, Nina W.	Anesthesiology	Portland
Pearson, Clarence E.	Cardiology	Bangor
Shah, Panna R.	Neurology	Telemedicine
Terreri, Anthony A.	Diagnostic Radiology	Teleradiology
Varghese, Mary R.	Internal Medicine	Not Listed
Yoon, Edward B.	Family Medicine	Portland

2. P.A. Licenses for Ratification

Dr. Dumont moved to ratify the Board Secretary's approval of the following physician assistant license applications. Dr. Sacchetti seconded the motion, which passed unanimously.

The following physician assistant license applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>LICENSE</u>	<u>PSP</u>	<u>LOCATION</u>
Charleson, Tiffany	Active	Ricci, Michael	Lewiston
Duncan, Christopher	Active	Grosvenor, Julie	Sanford
Lisk, Sean	Inactive	None	None
Livengood, Kathleen	Active	Cushing, Brad	Portland
Moore, Lisa	Inactive	None	None

B. Applications for Individual Consideration

1. Thomas G. Bannister, M.D.

The Licensure Committee moved to approve the license application. The motion passed unanimously.

2. Victor Rodriguez, M.D.

The Licensure Committee moved to table the application pending receipt of further information and to offer the licensee leave to withdraw his application. The motion passed unanimously.

C. Applications for Reinstatement

1. Applications for Reinstatement for Ratification

Dr. Nyberg moved to ratify the Board Secretary's approval of the following license reinstatement applications. Dr. Barnhart seconded the motion, which passed unanimously.

The following license reinstatement applications have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Carter, William P., III.	Emergency Medicine	Portland
Van Leeuwen, Dirk J.	Gastroenterology	Not Listed

2. Applications for Reinstatement for Individual Consideration (none)

D. Withdrawals

1. Withdraw License Application

a. Hil Rizvi, M.D.

Dr. Jones moved to deny Dr. Rizvi's request to withdraw his license application. Dr. Nyerg seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

2. Withdraw License from Registration

Dr. Barnhart moved to approve the licensees' requests to withdraw from registration. Mr. Ross seconded the motion, which passed unanimously.

The following licensees have applied to withdraw their licenses from registration.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Chinn, Douglas O.	MD19309
Gean, Margaret P.	MD18234

Guimaraes, Pedro	MD13761
Mikkelsen, Edwin J.	MD7911
Miller, Harry G.	MD15808
Pearce, Melissa W.	MD17830
Simmons, David J.	MD12037
Vargas, Donald	MD18704
Watterson, Laurence A.	MD8927

3. Withdraw License from Registration - Individual Consideration (none)

E. Licenses to Lapse by Operation of Law

The following licenses lapsed by operation of law effective November 19, 2014.

<u>NAME</u>	<u>LICENSE NUMBER</u>
Adams, Charles F., III.	MD8479
Banic, Zlatko	MD16230
Belman, Alec R.	MD16771
Brizuela, Miguel	MD19603
Cabelin, Miguelito	MD6191
Culley, Gregory	AL91004
Davis, Jeffrey A.	PA258
Gada, Hemal G.	MD20029
Hall, Kelli L.	MD18377
Jones, Thomas	MD16644
Kozlek, Thomas Jr.	MD19619
Levin, Dmitry	MD19753
Loughland, Mackenzie	MD18881
Rao, Chalapathi	MD8835
Rosenthal, Robert	MD11942
Ruffner, Joseph	MD15766
Salsbury, Thomas L.	MD19463
Schaedel, Robert S.	MD14661
Schreck, Carol L.	PA819
Singh, Mandeep	MD19137
Sladkovic, Frantisek	MD8419
Swan, Margaret	PA517
Thomas, Larry L.	MD13122
Van Lunen, Lloyd M.	MD9823
Wilson, Matthew A.	PA714
Witkowski, Michael	MD19675

F. Licensees Requesting to Convert to Active Status (none)

G. Renewal Applications for Review (none)

H. Physician Assistant Schedule II Authority Requests for Ratification

1. Applications to Renew Schedule II Authority

Dr. Dumont moved to ratify the Board Secretary's approval of the following renewal requests for Schedule II prescribing authority. Dr. Sacchetti seconded the motion, which passed unanimously.

The following renewal requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Card, Ryan	Barth, Konrad	Scarborough
Carroll, James	Lopes, Joseph	Waterville
Chase, Angela	Thompson, Melanie	Augusta
Currier, Danielle	Nohr, Orion	Portland
Degner, Jonathan	Quinn, Reed	Portland
Degrandpre, Cheryl	Camuso, Matthew	Portland
Drown, Diana	Bowe, Christopher	Lewiston
Gagnon, Patricia	Anderson, Robert	Augusta
Johnson, Carol	Polkinghorn, George	Augusta
Lamore, Van	Ramirez, Jose	Oakland
Maxwell, Linda	Kuffler, Julian	Southwest Harbor
Pinkham, Bethany	Abrams, Robert	Lubec
Raymond, Glenn	Harrigan, Daniel	Caribou

2. Applications for New Schedule II Authority

Dr. Dumont moved to ratify the Board Secretary's approval of the following new requests for Schedule II prescribing authority. Dr. Sacchetti seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by Board Secretary David D. Jones, M.D. without reservation.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Auer, David	Bloch, Rebecca	Portland
Bouzou, Loubabatou	Oldenburg, F. Parke	Bangor
Carbona, Veronica	Thompson, Melanie	Augusta
Casey, Kristen	Gold, Minda	Damariscotta
Davies, Cynthia	Bloch, Rebecca	Portland
Davies, Cynthia	Thaler, Frederick	Kittery
Doran, Scott	Bloch, Rebecca	Portland
Duncan, Christopher	Grosvenor, Julie	Sanford
Ely, Patrick	Faller, Alicia	Lewiston
Farrell, Andrew	Faller, Alicia	Lewiston
Feldman, Rhonda	Babikian, George	Falmouth
Kerney, Martha	Pachta-Galligan, Janet M.	Portland
Jackson, Lori	Mendible-Porras, Mariana	Caribou
Livengood, Kathleen	Cushing, Brad	Portland

Mejia, Carley	Burgess, Donald	Kennebunk
Morneault, Pierre	Cathcart, Wendy	Portland
Morrow, Gretchen	Dionne, Andrew	Augusta
Nadeau, Kenneth	Cheff, Susan	Old Town
Niland, Lori	Cushing, Brad	Portland
Parenteau, Stephen	Bloch, Rebecca	Portland
Parenteau, Stephen	Southall, John	Portland
Pettengill, Theodore	Hrynick, Martin	Sherman
Roberts, Charles	Ritter, Christopher	Old Town
Sherrill, Ingrid	Gold, Minda	Damariscotta
Tipton, Benjamin	Laband, Paul	Bath

3. Applications for New Schedule II Authority – Individual Consideration

a. Barry L. Campbell, P.A.-C

The Licensure Committee moved to deny Mr. Campbell's request for Schedule II prescribing authority based on the failure of his supervising physician to provide additional information requested by the Board. The motion passed 5-0-0-2 with Dr. Jones and Dr. Barnhart recused.

XII. Standing Committee Reports

A. Licensure and CME Committee

1. Draft revised license application questions

Dr. Jones moved to accept the proposed revisions to the Board's license application questions. Dr. Sacchetti seconded the motion, which passed unanimously.

B. Public Information Committee

The Board reviewed the winter 2014 issue of the newsletter which is scheduled to be delivered to recipients within the next week. Board members were pleased with the new format and appearance of the newsletter, and thanked Dr. Nyberg for his efforts.

C. Administration, Policy, and Rules Committee

1. FSMB New Executive Leadership Meeting

Dr. Jones moved to authorize Timothy Terranova, Assistant Executive Director, to attend the New Executive Orientation offered by the Federation of State Medical Boards in Euless, Texas on February 3, 2015. Dr. Nyberg seconded the motion, which passed unanimously.

XIII. Board Correspondence (none)

XIV. FYI (none)

XV. Other Business

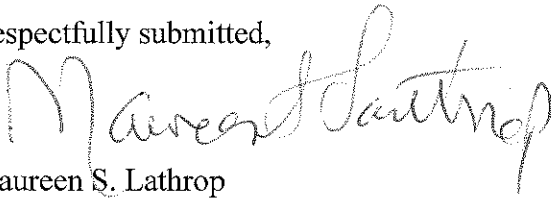
A. The Role of Case Reporters at Adjudicatory Hearings

The Board discussed the role of case reporters at Adjudicatory Hearings and instructed staff to draft a policy for review at a future meeting.

XVI. Adjournment 1:00 p.m.

Dr. Barnhart moved to adjourn the meeting. Dr. Sacchetti seconded the motion, which passed unanimously.

Respectfully submitted,

A handwritten signature in cursive script, reading "Maureen S. Lathrop". The signature is written in dark ink and is positioned above the printed name and title.

Maureen S. Lathrop
Administrative Assistant

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Keng Cheong Leong, MD)	AGREEMENT
Complaint No. CR14-44)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline and an adverse licensing action that is reportable as "a surrender of licensure" to the National Practitioner Data Bank and the Federation of State Medical Boards regarding the license to practice as a physician in the State of Maine held by Keng Cheong Leong, M.D. The parties to the Consent Agreement are: Keng Cheong Leong, M.D. ("Dr. Leong"), the State of Maine Board of Licensure in Medicine ("the Board"), and the State of Maine Office of the Attorney General ("the Attorney General"). This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. At all times relevant to the complaint, Dr. Leong was licensed as a physician in the State of Maine. The Board first issued a license to practice medicine on April 23, 1973. Dr. Leong specialized in Obstetrics and Gynecology.
2. On or about May 10, 2011, Dr. Leong entered into a consent agreement with the Board regarding Complaint CR10-580. Complaint CR10-580 involved Dr. Leong's inappropriate treatment of male and female patients with controlled drugs outside of his medical training and specialty and without conducting and documenting appropriate medical histories, physical examinations, and treatment planning. In particular, Dr. Leong created hand-written records which failed to include the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

As discipline, in that consent agreement Dr. Leong agreed to "immediately cease practicing general medicine, a medical specialty for which he has limited medical training, and limit his practice of medicine only to office based gynecology." In addition, Dr. Leong acknowledged that his failure to comply with the terms and conditions of the consent agreement would include additional grounds to discipline his Maine medical license, including suspension or revocation.

3. On or about April 8, 2014, the Board reviewed information received from various sources, including the Maine Medical Marijuana Program (MMMP) alleging that Dr. Leong had been: (a) issuing certificates to male patients to obtain medical marijuana; (b) not performing an appropriate history and physical examination prior to issuing the certificates for medical marijuana; (c) not creating appropriate medical records for each of the male patients to whom he issued certifications for medical marijuana; and (d) seeing the male patients at marijuana dispensaries, and not in an office. Following its review, the Board initiated a complaint against Dr. Leong's Maine medical license alleging unprofessional conduct, incompetence, engaging in conduct beyond the scope of his license, and violating the terms and conditions of his consent agreement.

4. On or about April 22, 2014, the Board received copies of medical marijuana certificates issued by Dr. Leong to forty-nine (49) male patients.

5. On or about April 23, 2014, the Board docketed the complaint as Complaint CR14-44, and sent it to Dr. Leong for a response, together with copies of the medical marijuana

certificates that he issued to the forty-nine (49) male patients, and a subpoena for Dr. Leong to provide the Board with a copy of the medical records of the forty-nine (49) male patients.

6. On or about May 23, 2014, the Board received a written response from Dr. Leong to Complaint CR14-44. In his response, Dr. Leong indicated that in 2013 he was "semi-retired" when he was approached by an unnamed and unidentified individual to issue certificates for medical marijuana.¹ According to Dr. Leong, he thought that practice would be consistent with his "inclination for holistic treatment" and could see the value of marijuana helping patients "endure their illnesses without having to use narcotic drugs." Dr. Leong indicated that he "agreed to provide this service through the Holistic Center, an organization which performed all the patient intake and billing, arranged the clinics at which [he] met and evaluated patients, and employed [him] as an independent contractor." Dr. Leong admitted that he issued certificates for medical marijuana to both male and female patients, and that such conduct "exceed the scope of [his] license and violated the Consent Agreement [he] entered into with the Board." Dr. Leong denied that he intentionally violated the limitations imposed by the consent agreement, asserted that he spoke with a member of the Board's staff about whether he could work as a locum tenens under his consent agreement, and denied trying to hide anything from the Board. However, Dr. Leong did not assert that he spoke with anyone at the Board regarding his issuing medical marijuana certificates or whether that would violate the terms or conditions of his consent agreement. According to Dr. Leong, the history and physical examination he performed on these patients "varied, depending upon the patients' complaints." Dr. Leong stated that he would also routinely review medical records brought by the patients. According to Dr. Leong, he did not have the records that he created for these patients in his possession because they were in the

¹ Dr. Leong did not indicate how or by whom he was paid to issue medical marijuana certificates or whether he was paid only if he issued such a certificate. Subsequent investigation revealed that he was paid "per patient."

possession of his "employer"; however, Dr. Leong asserted that he took a history that included "how long the pain had existed, how intense it was, and what other treatments they had attempted for their pain." Dr. Leong asserted that the physical examinations included "blood pressure measurement, palpation of areas which were the focus of the patients' complaints of pain, and observations of scarring from previous surgical procedures." Dr. Leong admitted that he did not "create lengthy medical records" that consisted of "a brief summary of the history and whatever examination was performed." Dr. Leong asserted that lengthier, more detailed records were not required "in this context" because it was not his intent to treat the patients' serious medical conditions and he "understood [his] role to be limited to managing their use of medical marijuana." Dr. Leong admitted seeing patients outside of his office and in "unorthodox" locations. Dr. Leong asserted that he did this "because there are very few doctors in rural areas who are willing to write certifications for medical marijuana."

7. On or about June 17, 2014, the Board's investigator obtained, pursuant to a subpoena, copies of the records of the forty-nine (49) male patients to whom Dr. Leong had issued medical marijuana certificates. Copies of these records were provided to Dr. Leong through his attorney. A review of those records, which were hand-written by Dr. Leong, revealed the following deficiencies: (a) Dr. Leong did not obtain or document vital signs (blood pressure and pulse) for thirty-six (36) of the forty-nine (49) patients as he had represented in his response to the complaint; (b) Dr. Leong did not perform or document any physical examinations for any of the forty-nine (49) patients as he had represented in his response to the complaint; (c) Dr. Leong did not record his medical decision making or a treatment plan, including the potential interaction of marijuana with other medications already prescribed to patients; (d) Dr. Leong did not recognize or record the potential adverse consequences of smoking marijuana for

a patient with a history of asthma; Dr. Leong did not recognize or record the potential adverse consequences of smoking marijuana to a patient with a history of a heart attack; and (e) Dr. Leong failed to contact a patient's psychiatrist prior to issuing a certificate of medical marijuana when the patient was on anti-psychotic medications. In sum, Dr. Leong's medical documentation failed to include the following elements for treating chronic pain in accordance with Board Rule, Chapter 21, Section III, "Principles of Proper Pain Management:"

- a. Appropriate documentation of medical history and physical examination, including the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases, the effect of the pain on physical and psychological functioning, and history of substance abuse.
- b. Appropriate documentation of a treatment plan that states objectives to be used to determine treatment success, and should indicate whether any other diagnostic evaluations or treatments are planned.

8. Section 3.1.2.1 of the Rules Governing the Maine Medical Use of Marijuana Program requires that a "physician must follow 2-373 or 2-383, Code of Maine Rules (C.M.R.), Chapter 21, *Use of Controlled Substances for Treatment of Pain* when certifying a patient for the medical use of marijuana.

9. On July 8, 2014, the Board reviewed the Complaint No. CR14-44, Dr. Leong's response, and the investigative information, and voted to schedule the matter for an adjudicatory hearing. In addition, the Board voted to offer Dr. Leong this Consent Agreement to resolve Complaint No. CR14-44 without further proceedings.

10. This Consent Agreement has been negotiated by legal counsel for Dr. Leong and legal counsel for the Board in order to resolve Complaint No. CR14-44 without further proceedings, including an adjudicatory hearing. Absent Dr. Leong's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to Maureen Lathrop, Investigative Secretary, Maine Board of Licensure in Medicine, 137 State House Station,

Augusta, Maine 04333-0137 on or before August 18, 2014, the matter will be scheduled for an adjudicatory hearing.

11. By signing this Consent Agreement, Dr. Leong waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

12. Dr. Leong admits that the Board has sufficient evidence from which it could conclude that he engaged in: (a) unprofessional conduct pursuant to 32 M.R.S. § 3282-A(2)(F); (b) incompetent medical care pursuant to 32 M.R.S. § 3282-A(2)(E); (c) activity that was beyond the scope of the restrictions on his Maine medical license pursuant to violated the scope of his medical license pursuant to 32 M.R.S. § 3282-A(2)(N); and (d) , activity that violated his consent agreement with the Board in violation of 32 M.R.S. § 3282-A(2)(P). Dr. Leong admits that such conduct constitutes grounds for discipline of his Maine medical license.

13. As discipline for the conduct described in paragraphs 1-12 above, Dr. Leong agrees to:

- a. The IMMEDIATE and PERMANENT SURRENDER of his Maine medical license effective upon the execution of this Consent Agreement. In complying with this provision, Dr. Leong shall return his Maine medical license to the Board with this Consent Agreement.
- b. Reimburse the Board Nine Hundred Twenty-Eight Dollars and Eighty Cents (\$928.80) as the actual costs of the investigation of this matter. Dr. Leong shall ensure that he makes full payment of reimbursement to the Board upon his execution of this Consent Agreement. Payment shall be made by certified check or money order made

payable to "Maine Board of Licensure in Medicine" or any other method of payment acceptable to the Board and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

14. Dr. Leong waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Leong agrees that this Consent Agreement is a final, non-appealable action resolving the Complaint No. CR14-44. This Consent Agreement is not appealable and is effective until or unless modified or rescinded in writing by the parties hereto. This Consent Agreement cannot be amended orally. It can only be amended by a writing signed by the parties hereto and approved by the Office of Attorney General.

15. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Leong or any other matter relating to this Consent Agreement.

16. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

17. This Consent Agreement constitutes adverse licensing and disciplinary action that is reportable to the National Practitioner Data Bank ("NPDB") and the Federation of State Medical Boards ("FSMB").

18. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

19. The Board and Dr. Leong agree that no further agency or legal action will be initiated against him by the Board based upon complaint CR14-44.

20. Dr. Leong has been represented by Christopher C. Taintor, Esq., who participated in the negotiation of this Consent Agreement on his behalf.

21. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

22. Dr. Leong acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

I, KENG CHEONG LEONG, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED:

11-18-2014

KENG CHEONG LEONG, M.D.

STATE OF

MAINE

ANDROSCOGGIN

County

Personally appeared before me the above-named Keng Cheong Leong, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED:

11/18/14

Christopher C. Taintor, Esq.
NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: _____

DATED:

11/18/14

Christopher C. Taintor, Esq.
CHRISTOPHER C. TAINTOR, ESQ.

Attorney for Dr. Leong

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED:


12/9/14


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE OFFICE
OF THE ATTORNEY GENERAL

DATED:

12/9/14


DENNIS E. SMITH
Assistant Attorney General

Effective Date:

12/9/14

STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

In re:)	CONSENT
Nicholas G. Handanos, M.D.)	AGREEMENT
Complaint No. CR13-131)	

This document is a Consent Agreement, effective when signed by all parties, regarding discipline imposed upon the license to practice as a physician in the State of Maine held by Nicholas G. Handanos, M.D. The parties to the Consent Agreement are: Nicholas G. Handanos, M.D. ("Dr. Handanos"), the State of Maine Board of Licensure in Medicine ("the Board") and the State of Maine Department of the Attorney General. This Consent Agreement is entered into pursuant to 10 M.R.S. § 8003(5)(B) and 32 M.R.S. § 3282-A.

STATEMENT OF FACTS

1. The Board first issued Dr. Handanos a license to practice as a physician in the State of Maine on May 19, 2003. At all times relevant to this complaint, Dr. Handanos was licensed as a physician by the Board and specializes in Internal Medicine.

2. On July 10, 2013, the Board received a complaint filed against Dr. Handanos' Maine medical license, which alleged that Dr. Handanos' medical treatment of patient 1 was deficient because he: (1) failed to order yearly mammograms as recommended by a radiology report indicating that the patient had a strong family history of breast cancer; and (2) failed to immediately refer patient 1 to the emergency department on November 4, 2011, at which time Dr. Handanos's diagnosed patient 1 with congestive heart failure. The Board docketed the complaint as Complaint CR13-131 and sent it to Dr. Handanos for a response.

3. On or about October 2, 2013, the Board received a response from Dr. Handanos to Complaint CR13-131. In his response, Dr. Handanos described his care of patient 1 as

follows: (1) The Mammography issue: "She should have been offered a mammogram every two¹ years thereafter. I do not have an adequate explanation as to why I did not order another mammogram." However, Dr. Handanos explained that he could have offered patient 1 a mammogram and she refused or he lacked the time to focus his attention on longer-term issues as patient 1 was a Medicare patient, and Medicare did not cover well patient exams. (2) The Congestive Heart Failure Issue: On November 4, 2011, patient 1 presented "with a cough and intermittent shortness of breath. A workup was started to find out the cause of her shortness of breath. Her oxygen saturation on that day was 95%. Any value greater than 92% is generally not a cause for concern." Dr. Handanos did not comment further on his failure to refer patient 1 to the emergency room in light of his diagnosis of Congestive Heart Failure. However, Dr. Handanos' medical notes regarding patient 1 on November 4, 2011, indicate as follows: "Congestive Heart Failure: c/o (complaint of) Leg edema for 2 weeks bilateral legs to ankles, associated with mild R ankle pain with walking. C/o (complaint of) shortness of breath for 2 weeks moderate, worse with exertion." "LUNGS: bibasilar crackles.² EXTREMITIES: 2 + pitting edema³ bilateral to ankles, symmetric." In addition, the record indicated that "Her constellation of Sx (symptoms) make CHF (congestive heart failure) the most likely Dx (diagnosis)."

4. On December 10, 2013, the Board reviewed Complaint CR13-131, including the medical records and Dr. Handanos's response. Following its review, the Board voted to send Dr.

¹ In fact, the radiology report stated: "Bilateral mammography should resume in September 2007 to establish an annual mammographic followup [sic] pattern in this patient with a strong family history of breast cancer."

² Bibasilar crackles are crackles originating in the base of both lungs that are caused by the popping open of small airways and the collapsing of alveoli by fluid, exudate, or lack of aeration during expiration.

³ Edema is the swelling of the interstitial tissue due to the accumulation of fluid. Pitting occurs when after pressure is applied to a small area of edema the resulting indentation persists after pressure is removed. It can be caused by systemic diseases such as congestive heart failure.

Handanos additional questions regarding Complaint CR13-131. In particular, the Board asked Dr. Handanos: (a) why he did not follow the patient's prior history of abnormal mammograms and previous biopsy that was suspicious for ductal carcinoma-in-situ; (b) why he had suspected the patient was suffering from congestive heart failure (CHF) on 11/14/11; (c) what other testing he considered performing for CHF on 11/04/11, and why it was not completed more timely; (d) why he treated the patient with benzonatate if he suspected CHF; and (e) why the patient was not seen when she called the practice a few days later and reported that she was not better.

5. On February 26, 2014, the Board received a written response from Dr. Handanos to the Board's questions.

Mammogram/Abnormal Biopsy. According to Dr. Handanos, when he prepared his response to the complaint, he did not have the patient's abnormal mammograms or suspicious breast biopsy. Dr. Handanos indicated that he did not know exactly when he learned about these aspects of the patient's medical history but that by his second encounter with the patient in 2008 he was aware of the concerning mammogram and biopsy. According to Dr. Handanos, he was "not sure whether [he] failed to sufficiently appreciate the significance of that history... or whether [the patient] made a deliberate decision not to undergo additional mammograms." Dr. Handanos stated that he regretted that he did not "adequately document the discussions" he had with the patient regarding this issue.

CHF/Benzonatate. Dr. Handanos indicated that on November 4, 2011, he diagnosed CHF in the patient based upon her shortness of breath for 2 weeks and the presence of bilateral ankle and foot swelling.⁴ Dr. Handanos stated that the patient's oxygen saturation

⁴ Dr. Handanos's medical record entry for the patient on November 4th included the following additional symptoms that were not mentioned in his response: "c/o Leg edema for 2 weeks bilateral legs to ankles, associated with mild R ankle pain with walking. c/o Shortness of breath for 2 weeks moderate, worse with

(95%) and respiratory rate (16 breaths per minute) led him to believe that the “workup for CHF could be performed in a routine manner.” Dr. Handanos indicated that he had ordered an echocardiogram and beta natriuretic peptide blood test, which he intended to review at the patient’s six-month visit on December 2, 2011. According to Dr. Handanos, he prescribed benzonatate to the patient for an upper respiratory infection and cough, which he concluded was unrelated to the CHF. Dr. Handanos acknowledged that the patient called the office on November 9, 2011, “to report that she still had a bad cough” but that this phone message was not relayed to him.⁵ As a result, Dr. Handanos’ medical assistant advised the patient to refill the prescription for benzonatate, and call back if her symptoms did not subside. According to Dr. Handanos, he had no contact with the patient after November 4th, which would have alerted him to any concerning change in the patient’s condition.

6. On March 11, 2014, the Board reviewed Complaint CR13-131, including Dr. Handanos’ answers to the Board’s questions regarding his treatment of the patient. Following its review, the Board voted to send Dr. Handanos additional questions regarding Complaint CR13-131. In particular, the Board asked Dr. Handanos: (a) Why there was no documentation of discussion with the patient about the need for additional mammography; (b) Whether he could provide any evidence that the patient was aware of the need for follow-up mammography; (c) Why no chest radiograph was obtained urgently on November 4, 2011, when the patient presented acutely with dyspnea, edema, and bilateral rales? (d) Why did he wait a month to complete testing and start treatment in a patient having acute symptoms of CHF? (e) Why he was not notified of the patient’s November 9th phone call, and whether the practice had a policy relating to patients calling with acute symptoms?

exertion.” “LUNGS: bibasilar crackles. EXTREMITIES: 2 + pitting edema bilateral to ankles, symmetric.”

⁵ Dr. Handanos did not explain why this telephone note was not conveyed to him by his medical assistant.

7. On April 3, 2014, the Board received a response from Dr. Handanos to the Board's questions. Dr. Handanos could not say with any certainty that he offered the patient a follow-up mammogram, which she declined. In addition, Dr. Handanos admitted that, if such a discussion occurred, he should have documented it and that it was an error on his part not to do so. Dr. Handanos stated that the reason he did not order the chest radiograph urgently on November 4th was because "most times, in early CHF, a chest X-ray is negative." In addition, according to Dr. Handanos, the patient presented "with two features, a slowly progressive exertion dyspnea over 2 weeks, and a 2 day history of a cough which was quite bothersome."⁶ Dr. Handanos explained that since the patient's oxygenation and respiratory rate was within the normal range, he decided that a routine workup for CHF was warranted. Dr. Handanos could not explain why the medical assistant did not speak with him on November 9th, and could only surmise that the medical assistant "did not regard this complaint as something that was significant enough to involve [him]."

8. On May 13, 2014, the Board reviewed Complaint CR13-131, including Dr. Handanos' response to the complaint, the relevant medical records, and Dr. Handanos' responses to the Board's questions and voted to offer Dr. Handanos this Consent Agreement in order to resolve Complaint CR13-131 without further proceedings.

9. This Consent Agreement has been negotiated by legal counsel for Dr. Handanos and legal counsel for the Board in order to resolve Complaint CR13-131 without further proceedings, including an adjudicatory hearing. Absent Dr. Handanos's acceptance of this Consent Agreement by signing and dating it in front of a notary and mailing it to the Maine

⁶ Dr. Handanos did not mention the patient's report of bilateral leg/ankle swelling for 2 weeks, nor the following findings he made on November 4th: "LUNGS: bibasilar crackles. EXTREMITIES: 2+ pitting edema bilateral to ankles, symmetric."

Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137 on or before October 30, 2014, the matter will be presented to the Board for further action.

10. By signing this Consent Agreement, Dr. Handanos waives any and all objections to, and hereby consents to allow the legal counsel to the Board to present this Consent Agreement to the Board for possible ratification.

COVENANTS

In lieu of proceeding to an adjudicatory hearing in this matter, Dr. Handanos and the Board agree to the following:

11. Dr. Handanos admits that with regard to Complaint CR13-131 the Board has sufficient evidence from which it could reasonably conclude that he: (a) failed to offer the patient follow-up mammography examinations in light of her previous abnormal mammogram, biopsy, and the recommendation of the radiologist; and (b) failed to order urgent testing for the patient on November 4, 2011, whom he diagnosed with congestive heart failure in light of the medical record that included the following: "c/o Leg edema for 2 weeks bilateral legs to ankles, associated with mild R ankle pain with walking. c/o Shortness of breath for 2 weeks moderate, worse with exertion." "LUNGS: bibasilar crackles. EXTREMITIES: 2 + pitting edema bilateral to ankles, symmetric." Dr. Handanos admits that such conduct constitutes unprofessional conduct and incompetence and grounds for discipline pursuant to 32 M.R.S. § 3286(2)(F) and (E).

12. As discipline for the conduct described in paragraphs 1-11 above pertaining to complaint CR13-131, Dr. Handanos agrees to accept, and the Board agrees to issue, the following discipline:

a. The Mammography Issue. For his failure to follow-up as recommended with the abnormal mammography and biopsy Dr. Handanos agrees to:

(1) Accept a REPRIMAND. Dr. Handanos was responsible for being aware of and following up on the patient's previous abnormal mammogram and biopsy. Dr. Handanos shall ensure that in the future he follows up with all patient testing as indicated by patients' medical records.

(2) Pay a MONETARY FINE of Five Hundred Dollars and Zero Cents (\$500.00). Dr. Handanos shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

b. The CHF Diagnosis and Testing. For his conduct regarding his failure to conduct urgent testing on the patient on November 4, 2011, Dr. Handanos agrees to:

(1) Accept a REPRIMAND. Dr. Handanos was responsible for urgently ordering testing of the patient following his diagnosis of CHF and in light of her documented conditions and symptoms. In the future, Dr. Handanos shall urgently order testing when presented with the types of symptoms as existed in this case.

(2). Pay a MONETARY FINE of Five Hundred Dollars and Zero Cents

(\$500.00). Dr. Handanos shall ensure that he pays the monetary penalty within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine," and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

c. Reimburse the Board Two Hundred Dollars and Fourteen Cents (\$200.14) as the actual costs of the investigation of this matter. Dr. Handanos shall ensure that he makes full payment of reimbursement to the Board within thirty (30) days following the execution of this Consent Agreement. Payment shall be made by certified check or money order made payable to "Maine Board of Licensure in Medicine," and be remitted to the Maine Board of Licensure in Medicine, 137 State House Station, Augusta, Maine 04333-0137.

13. Violation by Dr. Handanos of any of the terms or conditions of this Consent Agreement shall constitute grounds for discipline, including but not limited to modification, suspension, or revocation of licensure or the denial of re-licensure.

14. Pursuant to 10 M.R.S. § 8003(5) the Board and Dr. Handanos agree that the Board has the authority to issue an order, following notice and hearing, imposing further discipline, including revocation or suspension of his license, in the event that he fails to comply with any of the terms or conditions of this Consent Agreement.

15. Dr. Handanos waives his right to a hearing before the Board or any court regarding all findings, terms and conditions of this Consent Agreement. Dr. Handanos agrees that this Consent Agreement is a final order resolving Complaint CR13-131. This Consent

Agreement is not appealable and is effective until modified or rescinded by agreement of all of the parties hereto.

16. The Board and the Office of the Attorney General may communicate and cooperate regarding Dr. Handanos or any other matter relating to this Consent Agreement.

17. This Consent Agreement is a public record within the meaning of 1 M.R.S. § 402 and will be available for inspection and copying by the public pursuant to 1 M.R.S. § 408.

18. This Consent Agreement constitutes discipline and is an adverse licensing action that is reportable to the National Practitioner Data Bank (NPDB) and the Federation of State Medical Boards (FSMB).

19. Nothing in this Consent Agreement shall be construed to affect any right or interest of any person not a party hereto.

20. The Board and Dr. Handanos agree that no further agency or legal action will be initiated against him by the Board based upon the facts described herein except or unless he fails to comply with the terms and conditions of this Consent Agreement. The Board may however consider the conduct described above as evidence of a pattern of misconduct in the event that similar true allegations are brought against Dr. Handanos in the future. The Board may also consider the fact that discipline was imposed by this Consent Agreement in determining appropriate discipline in any further complaints against Dr. Handanos' Maine physician license.

21. Dr. Handanos has been represented by Christopher C. Taintor, Esq., who has participated in the negotiation of this Consent Agreement on his behalf.

22. Dr. Handanos acknowledges by his signature hereto that he has read this Consent Agreement, that he has had an opportunity to consult with an attorney before executing this

Consent Agreement, that he executed this Consent Agreement of his own free will and that he agrees to abide by all terms and conditions set forth herein.

23. For the purposes of this Consent Agreement, "execution" shall mean the date on which the final signature is affixed to this Consent Agreement.

I, NICHOLAS G. HANDANOS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING CONSENT AGREEMENT AND AGREE WITH ITS CONTENTS AND TERMS. I FURTHER UNDERSTAND THAT BY SIGNING THIS AGREEMENT, I WAIVE CERTAIN RIGHTS, INCLUDING THE RIGHT TO A HEARING BEFORE THE BOARD. I SIGN THIS CONSENT AGREEMENT VOLUNTARILY, WITHOUT ANY THREAT OR PROMISE. I UNDERSTAND THAT THIS CONSENT AGREEMENT CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: November 19, 2014

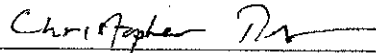

NICHOLAS G. HANDANOS, M.D.

STATE OF MAINE

Cumberland, S.S. (County)


Personally appeared before me the above-named Nicholas G. Handanos, M.D., and swore to the truth of the foregoing based upon his own personal knowledge, or upon information and belief, and so far as upon information and belief, he believes it to be true.

DATED: 11/19/14


NOTARY PUBLIC/ATTORNEY

MY COMMISSION ENDS: _____

DATED: 11/19/14


CHRISTOPHER C. TAINTOR, ESQ.
ATTORNEY FOR DR. HANDANOS


STATE OF MAINE
BOARD OF LICENSURE IN MEDICINE

DATED: 12/9/14


MAROULLA S. GLEATON, M.D., Chairman

STATE OF MAINE DEPARTMENT
OF THE ATTORNEY GENERAL

DATED: 12/9/14


DENNIS E. SMITH
Assistant Attorney General

Effective Date: 12/9/14